

REMARKS

The non-elected claims have been cancelled without prejudice to the right to file an appropriate continuing application directed thereto.

The independent claims now recite the use of the unsaturated amine and the amount of the water. The application points in paragraph [0007] out the water is at least 10% and preferably more than 30%. Nevertheless, the claims in this application are being directed to embodiments which were not preferred at the time the original filing was made. Thus, the claims are eliminating a water range explicitly set forth and retaining the remaining portion of the range described. The remaining range was, of course, embraced and contemplated by the original description. See, *Perricone v. Medicis Pharmaceutical Corp.*, 276 F. Supp. 229, 241 (D. Conn. 2003), *affirmed in part*, 2005 U.S. App LEXIS 28061 (Fed. Cir. 2005); See *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977)("[the] specification, having described the whole, necessarily described the part remaining.>").

An obvious typographical error has been corrected in claim 2. Additionally, new claims have been added for which basis can be found in paragraph [0018] and the original claims.

Applicant confirms the provisional election with traverse to prosecute the invention drawn to species (a). As noted by the Examiner, claims 1-8, 10, 11, 13, 14 and 16 are directed to the elected species and all of the newly added claims 17-22 are also directed to that species.

It is respectfully submitted that the requirement for an election of species should be withdrawn since no reason other than, an unsupported conclusion that the species are patentably distinct has been presented. That makes it impossible to directly address any basis the Examiner might have for the requirement. Since no basis for the species election requirement has been set forth, it is respectfully submitted that it is untenable and should be withdrawn.

All of the elected claims have been rejected under 35 U.S.C. § 102 over either Rooney, Lundy or Hagewara (spelled Haghware on the reference's title page), and, additionally claim 3 has been rejected as being obvious under 35 U.S.C. § 103 over Hagewara. All of these rejections are respectfully traversed.

All of the claims under rejection relate to a composition which is an aqueous, energy curable, homogeneous solution comprising the neutralization product of an ethylenically unsaturated acidic resin and an ethylenically unsaturated amine, in water, the combination being such that a stereo-cross-linked ionomer forms upon curing with an actinic radiation source offering an increased cross-linked density to the

composition. As pointed out in specification paragraph [0007], the present invention shows how in-situ photopolymerization can be used to generate the opposing charge type of polymer from blends that have utility in the manufacture of coated and printed materials, forming random, largely amorphous, three dimensional networks of opposing charge polymers with control over the rigidity of the cross linking. Cure can occur in the presence of water and the dissolved water can be allowed to concurrently dry without application of additional energy to give cured structures that are surprisingly not sensitive to water. This is a particular advantage of the invention. The references upon which the rejections are based do not teach or suggest the present invention.

The Rooney patent, cited in the instant application, teaches an aqueous polymer dispersion containing a polymer substantially free of cationic polymerizable groups and a cationic photoinitiator in which the polymer is capable of being precipitated by an acid or base generating photoinitiator upon exposure to radiation. The compositions of the present invention are solutions whereas the Rooney compositions are dispersions and not solutions. Accordingly, a rejection based on Section 102 is not tenable. Nothing in Rooney suggests converting a dispersion into a solution and therefore no rejection under Section 103 would have been appropriate.

The Lundy patent has no teaching or suggestion of the employment of an unsaturated amine and therefore no rejection based on either of these two statutory sections is tenable.

The Haghware reference teaches an aqueous composition in which the amount of water is 30% or more based on the total weight of the composition. See page 8, last line to page 9, line 3. The amount of water is therefore greater than recited in the instant claims and a rejection under Section 102 is not tenable. Turning to the question of obviousness under Section 103, Haghware teaches that a composition which is dried before curing. See page 2, lines 10-11, page 7, lines 14-18, and the examples. In contrast, the solution of the present invention can be cured without driving off the water by drying. That characteristic is surprising and unexpected, and makes the composition unobvious.

Application No. 10/702,313
Amendment dated February 7, 2006
Reply to Office Action of October 6, 2005

Docket No.: S9025.0087

In light of all of the foregoing considerations, withdrawal of all rejections and allowance of this applications is respectfully requested.

Dated: March 6, 2006

Respectfully submitted,

By Edward A. Meilman

Edward A. Meilman

Registration No.: 24,735

DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP

1177 Avenue of the Americas

41st Floor

New York, New York 10036-2714

(212) 835-1400

Attorney for Applicant